

**FYI**

Town of Stow  
**PLANNING BOARD**

380 Great Road  
Stow, Massachusetts 01775  
(978) 897-5098  
FAX (978) 897-4534

**NOTICE OF DECISION AND DECISION**

**WIRELESS SERVICE FACILITY  
SITE PLAN APPROVAL &  
SPECIAL PERMIT**

**New Cingular Wireless PCS LLC  
501 Gleasondale Road**

**March 21, 2006**

**1. Petition**

This document is the DECISION of the Stow Planning Board (hereinafter, the Board) on the Petition of New Cingular Wireless PCS LLC (hereinafter, the Petitioner) for property located at 501 Gleasondale Road.

This decision is in response to an application filed by the Petitioner for a Site Plan Approval and Petition for Special Permit Modification for a Wireless Service Facility (hereinafter the Petition), submitted to the Board on September 16, 2005, pursuant to Sections 3.11, 9.2 and 9.3 of the Stow Zoning Bylaw (hereinafter the Bylaw) and the Rules and Regulations for a Wireless Service Facility (hereinafter the Rules). The Petitioner seeks permission to construct and operate a wireless communications facility on an extension to a smokestack and on the rooftop of an existing building.

**2. Petitioner**

New Cingular Wireless PCS LLC  
c/o Anderson & Kreiger LLP  
43 Thorndike Street  
Cambridge, MA 02142

**Property Owner**

Gordon Skinner  
501 Gleasondale Road  
Stow, MA 01775

**3. Location**

Said property is located at 501 Gleasondale Road and is shown on the Stow Property Map Sheet U-8 as Parcel 4 (hereinafter, the Site).

**4. Board Action**

After due consideration of the Petition, the record of proceedings, and based upon the findings and conclusions set forth below, the Board, on March 14, 2006, by a vote of five members present at the public hearing, voted to DENY the request for Special Permit under Sections 3.11 and 9.2 of the Zoning Bylaws, and on March 21, 2006, by a vote of four members present at the public hearing, voted to DENY the request for Site Plan Approval under Sections 3.11 and 9.3 of the Stow Zoning Bylaws.

## **5. Proceedings**

The Petitioner presented the Petition to the Board at a duly noticed public hearing held on October 11, 2005. The public hearing was continued to January 10, 2006 upon assent of the Petitioner and was closed at the conclusion of the January 10, 2006 session. Board Members Bruce E. Fletcher, Ernest E. Dodd, Malcolm S. FitzPatrick, Laura Spear and Kathleen Willis were present throughout each of the hearing sessions. The record of proceeding and submission upon which this decision is based may be referred to in the Office of the Town Clerk or the Office of the Planning Board.

## **6. Exhibits**

Submitted for the Board's deliberation were the following exhibits:

### **EXHIBIT 1**

1. Plan entitled "Cingular Wireless, Stow South, drawn by Arial Spectrum Inc., dated July 5, 2005, revised through September 14, 2005, consisting of the following sheets:

T-1 – Title Sheet  
C-1 – Site Plan  
C-2 – Compound Plan and Elevation

### **EXHIBIT 2**      Supplementary documents required by the Rules consisting of the following:

1. Letter dated September 16, 2005, from Anderson & Kreiger LLP;
2. Application for a Wireless Service Facility-Site Plan Approval;
3. List of Abutters;
4. Report dated September 13, 2005, prepared by Radio Frequency engineer including coverage maps (with and without the facility);
5. Letter dated July 28, 2005 from Gordon Skinner, Landlord (Landlord Authorization);
6. Prior Town of Stow Special Permit/Site Plan Decisions:
  - a. Planning Board Decision - Sprint Site Plan Approval dated June 14, 2000 (Approved)
  - b. Planning Board Decision - Omnipoint Communications MB Operations, PC Site Plan Approval dated October 10, 2000 (Approved)
  - c. Zoning Board of Appeals Decision – Sprint Appeal of Unfavorable Action (Approved)
  - d. Zoning Board of Appeals Decision – Sprint Variance Request for variance (Denies as not necessary)
7. Deed: F.L.B. Inc., a Massachusetts Corporation, by deed for Assabet Realty Trust, dated March 4, 1974 and recorded March 15, 1974 in Book 12601.
8. Lease: Notice of lease between Lessor F. L. B., Inc. and Gordon A. Skinner, Mary M. Skinner, and Glenn R. Skinner, dated May 24, 1985 recorded in Book 16184, Page 277
9. Plan of Land of F. L. B., Inc. Gleasondale Industrial Park, Stow, Mass., dated March 3, 1978, recorded March 9, 1978
10. Copy of Cingular's FCC Licenses
11. Copy of Cingular's Corporate Filings
12. Statement of Policy by the Massachusetts Department of Public Health

**EXHIBIT 3** Additional information submitted by the Petitioner:

1. Coverage Plans, prepared by Cingular Wireless and received by the Board on October 11, 2005:
  - a. New Cingular Wireless Existing Coverage
  - b. New Cingular Wireless Existing and Proposed Coverage (@ 50ft)
  - c. New Cingular Wireless Existing and Proposed Coverage (@ 75ft)
  - d. New Cingular Wireless Existing and Proposed Coverage (@ 77ft)
  - e. New Cingular Wireless Existing and Proposed Coverage (@ 100ft)
  - f. New Cingular Wireless Existing and Proposed Coverage (@ 127ft)
  - g. Coverage Comparison Between 75ft and 127ft at Gleason Industrial Park
  - h. New Cingular Wireless Hillcrest Avenue Existing Coverage
  - i. Gleason Industrial Park Drive Test Data @ 75ft
  - j. Panoramic picture taken from Gleason Industrial Park at 75ft
  - k. New Cingular Wireless Coverage (With Proposed Site)
  - l. New Cingular Wireless Coverage (without Proposed Site)
  - m. Test Drive data
2. Photo Simulations, received by the Board on October 11, 2005:
  - a. Photo Simulation # 1, Cingular Wireless's "Stow South" (View of pole-mounted antennas on existing smokestack. Southwest view looking northeast)
  - b. Photo Simulation # 2, Cingular Wireless's "Stow South" (View of pole-mounted antennas on existing smokestack. Northeast view looking southwest)
  - c. Photo Simulation # 4, Cingular Wireless's "Stow South" (View looking East from Orchard Hill – proposed antenna system visible)
3. Report from Radiation Safety Specialist, Donald L. Haes, Jr., Ph.D., CHP, dated October 27, 2005
4. Report from Jonathan McNeal, Cingular Wireless Real Estate Consultant, dated December 14, 2005
5. Test Drive Map entitled "Gleason Industrial Park Existing Coverage", prepared by Cingular Wireless, received by the Board on January 10, 2006

**EXHIBIT 4** Comments received from other Town Boards and Committees:

1. Letter, dated October 6, 2005, from Richard Roggveen, Stow Building Inspector, to Cingular Wireless
2. Memo from John Wallace, Stow Board of Health Agent
3. Memo, dated October 10, 2005, from Jon Witten, Town Counsel
4. Zoning Board of Appeals Notice of Decision and Decision, dated December 27, 2005
5. Zoning Board of Appeals Notice and Decision of Appeal from Unfavorable Action, dated January 19, 2006

Comments received from abutters

1. E-mail from William Byron

Exhibits 1 through 3 are referred to herein as the Petition.

**7. FINDINGS, CONCLUSIONS and CONDITIONS**

Based upon its review of the Exhibits and the record of the proceedings, the Board finds and concludes that:

- 7.1 The Petition shows a Wireless Communications Facility on a portion of Parcel 4 on Assessors Map Sheet U-8, located within the Industrial District and the Wireless Service Overlay District, consisting of 223,000± square feet.

- 7.2 The Petitioner proposes to construct and operate a wireless communications facility on an extension to an existing smokestack and on the rooftop of an existing building at 501 Gleasondale Road.
- 7.3 The proposed installation includes:
1. Six (6) antennas (2 per sector for three sections) on pipe mounts attached to the interior of the smokestack, extending ten feet to a height of 131.3 ft AGL above the smokestack. The antennas and mounts will be painted to match the existing smokestack.
  2. A cable ladder (also painted to match the smokestack) will be run down the stack to a cable tray under an existing roof overhang.
  3. An 11'6" by 20' equipment shelter, on a steel platform, to be located on a lower roof, and finished to match the existing exterior.
  4. An access ladder to the equipment shelter.
- 7.4 The Gleasondale Mill is listed on the Stow Historic Property inventory and there is a number of abutting, and neighborhood properties listed on the inventory.
- 7.5 In its Petition, Cingular Wireless sets forth alternative arguments regarding the permissions and/or approvals sought from the Stow Planning Board:
1. Site Plan Approval Wireless Overlay District under Section 9.3 of the Zoning Bylaw.
  2. Modification to a wireless service facility, under Section 3.11.16 of the Zoning Bylaw.
  3. Finding and Special Permit Under G. L. c. 40A, Section 6 to alter or Extend a Preexisting Nonconforming Use, under Section 3.9.1 of the Zoning Bylaw.
  4. Waivers regarding Inapplicable Site Plan and Special Permit Requirements, under Section 9.3.4 of the Zoning Bylaw and Section 1.6 of the Wireless Service Facility Rules and Regulations.
- 7.6 The Building Inspector, in a letter dated October 6, 2006 to Cingular Wireless, advised the Petitioner of the right to seek a variance from the Zoning Board of Appeals for a reduction in set-back requirements of Section 3.11.7.2-a (1,000 feet to residential buildings) and Section 3.11.7.2-c (200 feet to non-residential buildings).
- 7.7 The Board finds that Section 3.11 of the Bylaw designates the Planning Board as the Special Permit Granting Authority for Wireless Service Facilities, and Section 3.9 of the Bylaw removes the adjudication of alterations and extensions to pre-existing non-conforming wireless service facilities from the Board of Appeals (where it would otherwise be adjudicated pursuant to G.L. c.40A, s.6 but for Section 3.9.1 of the Stow Zoning Bylaw), directing such adjudication to the Planning Board, subject to the terms and requirements of Section 3.11 of the Bylaw.

Although Cingular seeks a modification to a wireless service facility, the Board finds that the Petition of Cingular Wireless to be a new special permit application and not a modification of a previously issued special permit. Support for this finding is the fact that neither Cingular Wireless nor a related entity has previously been the recipient of a special permit for a wireless service facility at this location. That other wireless carriers are located on the structure in question does not, in the Board's opinion, transform the current Petition into a modification of a previously issued special permit.

Cingular's Petition for a special permit is a new Petition for this particular facility. While Cingular seeks to locate on a structure that has heretofore been the beneficiary of a previously issued special permit, the proposed use and structure—Cingular's—has not been the subject of a previously issued special permit. Therefore, Cingular's Petition of October 11, 2005 constitutes a Petition for a new special permit and not the Petition for a "modification" of a previously issued special permit.

- 7.8 During the Public Hearing, an abutter requested that no added structure exceed the height of the current chimney, and that any additional antenna modules be mounted flush to the chimney, similar to Omni Point.
- 7.9 The Board of Appeals, in its decision dated December 27, 2005, granted a variance, subject to conditions, from the 100-foot height limit to a height not to exceed 131.3 feet AGL and a variance from the 1,000-foot and 200-foot setback requirements to the extent of the existing setback of the chimney and building (but no more).
- 7.10 The Board of Appeals, in its decision dated January 19, 2006, accepted the Petitioner's request for withdrawal of the appeal from the Building Inspector's denial of a building permit, without prejudice.
- 7.11 The Board of Health reported they have no comment on the proposed Wireless Service Facility.
- 7.12 The Board makes the following findings pursuant to Section 3.11.1 of the Bylaw (Wireless Service Facility Objectives):
- 7.12.1 Section 3.11.1 A – The Board finds the Petition does not meet the objective of the Bylaw in that it does not protect the scenic, historic, and rural and man-made resources of the Town. The visual impact is not mitigated at a height of 131.3 feet, by virtue of the fact, by the Petitioner's own admission, a fiberglass enclosure cannot be made to look like the existing brick chimney structure.
  - 7.12.2 Section 3.11.1.B – The Board finds that the proposed facility does not protect property values in that visual impacts are not mitigated. The Board finds that the Petitioner has not proposed means or methods to mitigate the impact of the visual impacts a facility with a height of 131.3 feet will have on abutting and nearby properties.
  - 7.12.3 Section 3.11.1. E – The Board finds the Petition does not meet the objective of the bylaw in that it does not guide sound development and encourage the most appropriate use of the land at the proposed height of 131.3 feet. Based on presentations by the Petitioner made at the public hearing, the Board finds there is the potential to locate the facility within the Bylaw's proscribed 100-foot height limit, thereby complying with the Town of Stow's comprehensive Bylaw regulating wireless service facilities. The Board finds that compliance with this 100-foot height limitation is practically achieved, will provide Petitioner with more than adequate height for the communication services that it seeks and would be consistent with the clearly articulated purposes and intent of the Zoning Bylaw. The Board reserves the right to review a new Petition to review the location within the 100-foot height limit for its appropriateness under the Bylaw.
  - 7.12.4 Section 3.11.1 F – The Board finds the Petition meets the objective of the Bylaw in that it encourages the use of certain existing towers and structures. Based on presentations at the public hearing, the Board further finds that a height of less than 100 feet is feasible, more appropriate for the site and meets the height limitation of the Bylaw.
  - 7.12.5 Section 3.11.1 G – The Board finds the Petition meets the objective of the Bylaw in that it limits the total number of Wireless Service facilities. The Board finds the Petition does not meet the objective of the Bylaw in that it does not limit the height of the facility to what is essential to meet the need of the Petitioner based upon the Petitioner's own testimony. Based on presentations at the public hearing, the Board further finds that a height of less than 100 feet is feasible, pragmatic and more appropriate for the site.

7.13 The Board makes the following findings under Section 3.11.4 of the Bylaw:

- 7.13.1 Section 3.11.4.2 – The Board finds the Petitioner did not demonstrate to the degree necessary that they have investigated locations higher in priority ranking than the present locus and make a showing that demonstrates that the alternatives are individually or in aggregate insufficient to provide the necessary coverage and/or individually or in aggregate more visible or otherwise have more of a detrimental impact on the community than use of the proposed location.
- 7.13.2 Section 3.11.4.2.a - The Petitioner did not consider property occupied by the State Dept. of Fire Services, the State Entomology Lab and the portion of the former Ft. Devens Annex occupied by the Air Force.
- 7.13.3 Section 3.11.4.2.b - The Petitioner stated that it is not feasible to conceal the proposed antenna within the present structure.
- 7.13.4 Section 3.11.4.2.c - The Petitioner made an attempt to camouflage the proposed structure of a compatible design. The Board finds that the proposed antenna, however camouflaged, is above the height of the existing smokestack and is not of a compatible design.
- 7.13.5 Section 3.11.4.2.d - The Board finds the Petition exceeds the 100' height limitation of the Bylaw. The Petition unmistakably shows the proposed antenna at 131.3 AGL and 10' above the height of the smokestack.
- 7.13.6 Section 3.11.4.2.e - The Petition shows the proposed facility to be co-located within the Wireless Service Facility District. Based on presentations at the public hearing, the Board further finds that a height of less than 100 feet is feasible and more appropriate for the site.
- 7.13.7 Section 3.11.4.2.f - The Petition shows the proposed facility to be co-located on a new mount within the Wireless Service Facility District. Based on presentations at the public hearing, the Board further finds that a height of less than 100 feet is feasible and more appropriate for the site.
- 7.13.8 Section 3.11.4.2.g - The Petitioner did not adequately demonstrate that other locations are not feasible or that erection of the proposed facility complies with the requirements of Section 3.11.4 of the Bylaw and that visual impact is eliminated or minimized and mitigated to the maximum extent feasible, including height reductions, camouflaging and other means.
- 7.14 The Board makes the following findings under Section 3.11.7.1 of the Bylaw:
- 7.14.1 Section 3.11.7.1.a - The Petition does not meet the requirement of the Bylaw in that the height of the proposed facility exceeds the 100-foot height limitation.
- 7.14.2 Section 3.11.7.1.b - The Petitioner did not adequately document that they considered property occupied by the State Dept. of Fire Services, the State Entomology Lab and the portion of the former Ft. Devens Annex occupied by the Air Force, which allows the height of the facility at 150 feet AGL.
- 7.14.3 Section 3.11.7.1.c - The Board finds that the height of the facility is not proportional to, compatible with and/or appropriate to the site and surroundings. Visual impacts are not adequately mitigated. Based on presentations made by the Petitioner at the public hearing, the Board further finds that a height of less than 100 feet is feasible, more appropriate for the site, and consistent with the clear terms of the Zoning Bylaw.
- 7.14.4 Section 3.11.7.1.e - The Petition does not meet the requirement of the Bylaw in that the height of the proposed facility exceeds 100 feet. Section 3.11.7.e of the Bylaw states "No waiver from these height limitations shall be granted except by a vote of Town Meeting". The height limitations to which Section 3.11.7.1(e) refers are those found within Section 3.11.7.1, namely that the maximum height of a new wireless service facility shall not exceed 100 feet.

Although the Zoning Board of Appeals granted a variance to Cingular allowing for a finished height greater than that otherwise permitted by Section 3.11.7.1 of the Zoning Bylaw, the Board finds that height may be varied only by a vote of Town Meeting.

7.15 The Board makes the following findings under Section 3.11.7.2 of the Bylaw:

7.15.1 Section 3.11.7.2.a - The Petition does not meet the requirement of the Bylaw in that the proposed facility is located within 1,000 feet of residential buildings. The Bylaw states that the Special Permit Granting Authority may allow a setback of 900 feet when it finds that a substantially better design will result from such reduction. Although the Zoning Board of Appeals granted a variance from the 1,000-ft setback requirement to the extent of the existing setback of the chimney and building (but not more), the Board finds the variance was not properly granted because the Planning Board is the Special Permit Granting Authority for the proposed facility. Whatever legal meaning can be given to the Board of Appeals decision notwithstanding, the Planning Board remains the special permit granting authority for this Petition pursuant to Sections 3.9.1 and 3.11 of the Zoning Bylaw.

7.15.2 Section 3.11.7.2.c - The Petition does not meet the requirement of the Bylaw in that the proposed facility is located within 200 feet from existing non-residential buildings. Although the Zoning Board of Appeals granted a variance from the 200 foot setback, the Board finds the variance was not properly granted because the Planning Board is the Permit Granting Authority for the proposed facility. Whatever legal meaning can be given to the Board of Appeals decision notwithstanding, the Planning Board remains the special permit granting authority for this Petition pursuant to Sections 3.9.1 and 3.11 of the Zoning Bylaw.

7.16 Section 3.11.7.3 of the Bylaw requires that equipment shelters be located in underground vaults, or designed to be consistent with traditional New England architectural styles and materials of the mill building. The Board finds that alternative materials proposed, simulated brick, is not consistent with traditional New England architectural styles and materials.

7.17 The Petition complies with the requirements of Section 3.11.7.4 (Security, Signs) of the Bylaw.

7.18 The Petition complies with the requirements of Section 3.11.7.5 (Lighting) of the Bylaw.

7.19 The Board makes the following findings under Section 3.11.7.6 of the Bylaw:

7.19.1 Section 3.11.7.6.a - The proposed facility will result in alteration of the character-defining features, distinctive construction methods, and original historic materials of the mill building, contrary to the requirement of the Bylaw.

7.20 The Board makes the following findings under Section 3.11.9.1 of the Bylaw:

7.20.1 The required maps were not provided in digital format.

7.20.2 The Board finds that sufficient data was not provided to justify that the coverage at 131.3 feet is sufficiently superior to coverage at 75 feet.

7.21 The Petition does not meet the requirement of Section 3.11.9.2 of the Bylaw, in that the Board concludes that Petitioner did not adequately demonstrate that other facilities in the Town of Stow and/or abutting towns, in which it has legal or equitable interest, do not already provide, or do not have the potential to provide, wireless service by site adjustment. The Board interprets the phrase "site adjustment" to refer to the question of whether or not the Petitioner could reasonably be expected to alter an existing wireless service facility over which it has a legal or equitable interest to provide the desired coverage. As noted, the Petitioner has provided the Board with no evidence that it has made the necessary investigation or inquiry to satisfy this provision of the Zoning Bylaw.

- 7.22 The Petition does not meet the requirement of Section 3.11.9.3 of the Bylaw in that the Petitioner did not demonstrate to the satisfaction of the Board that it has examined all facility sites located in the Town and in abutting towns or cities, in which the Petitioner has no legal or equitable interest, to determine whether those existing facilities can be used to provide Wireless Service. In addition, the Petitioner did not demonstrate that it has examined existing Commercial Buildings and Structures for opportunities to construct roof and side mounts, or otherwise demonstrate that such a facility is not technologically feasible as a potential facility site.
- 7.23 The Board makes the following findings under Section 3.11.12. 1 of the Bylaw:
- 7.23.1 The Petition does not meet the requirement of the Bylaw. The Board finds that the proposed facility is not in harmony with the general purpose and intent of the Bylaw. As discussed above, the Petition fails to comply with the Bylaw in several material aspects. As presented, the Petition violates the spirit and intent of the Bylaw and the Board believes it is without authority to approve the Petition as presented.
  - 7.23.2 Section 3.11.12.1.a - Based on presentations at the public hearing and documentation provided in the Petitions, the Board finds that adequate coverage can be provided at a height of less than 100 feet.
  - 7.23.3 Section 3.11.12.1.b - The proposed facility is located within the Wireless Service Facility Overlay District, as adopted by Town Meeting and approved by the Attorney General. The Board finds that the Petitioner demonstrated that the facility would be functional and effective at a height below the 100' height limitation of the bylaw and that the facility would provide sufficient coverage to the extent that the Town is required to accommodate such coverage under federal law. The Board finds that the proposed facility does not adequately mitigate adverse impact on: historic resources, scenic views, residential property values, natural or man-made resources, and the public welfare.
  - 7.23.4 Section 3.11.12.1.c - The Board finds that reasonable measures were not taken to mitigate the potential adverse impacts of the facility, particularly with respect to the additional height of the proposed facility, and the proposed materials are not consistent with traditional New England architectural styles and materials.
  - 7.23.5 Section 3.11.12.1.d - The Petitioner advised that the proposed facility complies with the appropriate FCC regulations regarding emissions of electromagnetic energy. The Bylaw requires that the Petitioner shall pay for monitoring. The Board makes no finding as to the adequacy or accuracy of the Petitioner's statement regarding compliance with FCC regulations.
  - 7.23.6 Section 3.11.12.1.e - The facility is designed to accommodate the maximum number of users technologically practical. Sprint and OmniPoint are located on the smokestack. The Board finds that a height of less than 100 feet for the Petitioner to co-locate on the structure is feasible, more appropriate for the site, and would meet the requirement of this section of the Bylaw.
- 7.24 The Board makes the following findings under Section 9.2.6 (Mandatory Findings by Special Permit Granting Authority):
- 7.24.1 Section 9.2.6.1 – The proposed facility is not in harmony with the purpose and intent of this Bylaw. The Petition does not meet the objectives of Section 3.11 (Wireless Service Facility) of the Bylaw as stated in Section 3.11.1. The intent of the Bylaw is to limit the height of a wireless service facility to 100 feet. Section 3.11.7.e of the Bylaw states "No waiver from these height limitations shall be granted except by a vote of Town Meeting". Based on presentations at the public hearing, the Board finds that the proposed height of 131.3' is not appropriate for the site, and does not meet requirements of this section of the Bylaw.



- 7.24.2 Section 9.2.6.2 – At the height proposed by the Petitioner, the facility will be detrimental and/or injurious to abutting properties or ways, the neighborhood, community amenities or the Town of Stow. Visual impact is not mitigated. As proposed, the facility does not comply with the clear and unequivocal requirements of the Zoning Bylaw.
- 7.24.3 Section 9.2.6.3 – The proposed facility is not appropriate for the site. The proposed antenna at 131.3 AGL and 10' above the height of the smokestack is not in keeping with the scale and proportions of existing and proposed buildings in the immediate vicinity of the locus that have functional or visual relationship to the proposed use.
- 7.24.4 Section 9.2.6.4 – The Petition does not include adequate mitigating measures as discussed above.
- 7.24.5 Section 9.2.6.5 – The Petition will result in no pollution or contamination of the GROUND WATER, a GROUND WATER recharge area, a well, pond, stream, watercourse or inland wetland.
- 7.24.6 Section 9.2.6.6 – The Petition will not result in a significant effect on the "level of service" (LOS) of the Town roads or intersections of these roads.
- 7.24.7 Section 9.2.6.7 – The Petition will not result in a significant effect on level of service for any service provided by the Town, including Fire, Police and Ambulance.
- 7.24.8 Section 9.2.6.8 – The Petition will not result in redirection of existing surface water runoff such that there would be material impact on abutting parcels or downstream properties.
- 7.24.9 Section 9.2.6.9 – The Petition will not result in transport by air or water of erodible material beyond the boundary line of the LOT.
- 7.24.10 Section 9.2.6.10 – The Petition provides adequate provision for pedestrian traffic.
- 7.24.11 Section 9.2.6.11 – The Petition does not comply with all requirements of Site Plan Approval and all other applicable requirements of this Bylaw.
- 7.25 The Board makes the following findings under Section 9.3.12 (Findings by Site Plan Approval Granting Authority) of the Bylaw.
  - 7.25.1 Section 9.3.12 – The proposed use is a permitted use on the site, subject to the requirements of Section 3.11 (Wireless Service Facility) and Section 9.2 (Special Permits). The Board finds that the Petition does not comply with several substantive requirements of Sections 3.11 and 9.2 of the Bylaw.
  - 7.25.2 Section 9.3.12.1 - The Petition does not protect the abutting properties and ways, the neighborhood, community amenities and the Town against seriously detrimental or offensive uses on the site and against adverse effects on the natural environment.
  - 7.25.3 Section 9.3.12.2 - The Petition provides for convenient and safe vehicular and pedestrian movement and that the locations of road and driveway openings are convenient and safe in relation to vehicular and pedestrian traffic circulation, including emergency vehicles, on or adjoining the site.
  - 7.25.4 Section 9.3.12.3 - The Petition provides an adequate, convenient and safe arrangement of parking and loading spaces in relation to the proposed uses of the site.
  - 7.25.5 Section 9.3.12.4 - The Petition provides adequate and safe methods of disposal of refuse or other wastes resulting from the uses permitted on the site.
  - 7.25.6 Section 9.3.12.5 – If approved as submitted, the Petition would derogate from the purpose of the Bylaw.
  - 7.25.7 Section 9.3.12.6 – As noted throughout this Decision, the Petition does not comply with all applicable and substantive requirements of the Bylaw.

## 8. APPEALS

Appeals, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws, Chapter 40A and shall be filed within twenty (20) days after the date of filing this decision with the Town Clerk.

Witness our hands this 21st day of March 2006

Bruce E. Fletcher 3/23/06  
Bruce E. Fletcher

Ernest E. Dodd 3/23/06  
Ernest E. Dodd

Malcolm S. FitzPatrick 3/22/06  
Malcolm S. FitzPatrick

Laura Spear 3/24/06  
Laura Spear

Kathleen Willis 3/23/06  
Kathleen Willis

Received and Filed

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Linda E. Hathaway  
Linda Hathaway, Town Clerk

March 27, 2006  
Date

This is to certify that the twenty (20) day appeal period on this decision has passed and there have been no appeals made to this office.

Linda Hathaway, Town Clerk

Date